



Commonwealth of Massachusetts State Ethics Commission

One Ashburton Place, Room 619, Boston, MA, 02108
phone: 617-727-0060, fax: 617-723-5851



SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 530

IN THE MATTER OF ELAINE BUSH

DISPOSITION AGREEMENT

This Disposition Agreement ("Agreement") is entered into between the State Ethics Commission ("Commission") and Elaine Bush ("Bush") pursuant to §5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, §4(j).

On June 6, 1995, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Bush. The Commission has concluded its inquiry and, on July 11, 1995, found reasonable cause to believe that Bush violated G.L. c. 268A.

The Commission and Bush now agree to the following findings of fact and conclusions of law:

1a At all relevant times, Bush was employed as the athletic director for the Town of Millbury. As such, Bush was a municipal employee as that term is defined in G.L. c. 268A, §1(g).

2a In early fall 1994, the Millbury School Department posted the Millbury High School girls basketball coach position. The position is annually posted, although the posting is usually *pro forma* since most coaches are reappointed. The incumbent basketball coach had held the position for the previous 12 years.

3a The coaching position pays a stipend of \$3,375 for the season.

4a Four candidates applied for the coaching position, including Bush's daughter Jodi Bush ("Jodi") and the incumbent.

5a Bush and the Millbury High School principal interviewed the four candidates. Although Bush was present during her daughter's interview, she did not ask any questions.

6a After finishing the interview process, Bush and the high school principal decided to forward the names of all the candidates to the Millbury School superintendent for consideration. They did not rank the candidates.

7a The superintendent, as the appointing authority for the position, selected Jodi for the coaching job.

8a The Commission has no evidence to suggest that Bush was aware that her actions violated G.L. c. 268A when she participated in the hiring process for the high school girls basketball coach.^{1/}

9a Section 19 of G.L. c. 268A, except as permitted by paragraph (b) of that section, prohibits a municipal employee from participating as such an employee in a particular matter in which to her knowledge she or an immediate family member has a financial interest. None of the exceptions contained in §19(b) apply in this case.

10a The determination as to whom to hire as the high school girls basketball coach was a particular matter.^{2/}

11a As set forth above, Bush participated^{3/} as athletic director in that hiring determination by interviewing the candidates and forwarding their names, including her daughter's, to the superintendent for appointment consideration.

12a Jodi, as an applicant for the girls high school basketball coaching position, had a financial interest in the appointment of that position. Bush knew of her daughter's financial interest at the time she participated in the hiring process.

13a Accordingly, by participating in the girls high school basketball coach hiring process, as set forth above, Bush participated in her official capacity in a particular matter in which she knew an immediate family member had a financial interest, thereby violating G.L. c. 268A, §19.^{4/}

14a Bush cooperated with the Commission's investigation.

In view of the foregoing violations of G.L. c. 268A by Bush, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Bush:

- (1) that Bush pay to the Commission the sum of two hundred and fifty dollars (\$250.00) as a civil penalty for violating G.L. c. 268A as stated above;
- (2) that Bush will act in conformance with the requirements of G.L. c. 268A, §19 in the future; and
- (3) that Bush waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

DATE: July 13, 1995

^{1/} Ignorance of the law is no defense to a violation of G.L. c. 268A. *In re Doyle*, 1980 SEC 11, 13. See also, *Scola v. Scola*, 318 Mass. 1, 7 (1945).

^{2/} "Particular matter," any judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination, finding, but excluding enactment of general legislation by the general court and petitions of cities, towns, counties and districts for special laws related to their governmental organizations, powers, duties, finances and property. G.L. c. 268A, §1(k).

^{3/} "Participate," participate in agency action or in a particular matter personally and substantially as a state, county or municipal employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation or otherwise. G.L. c. 268A, §1(j).

^{4/} A troubling fact is that the hiring process resulted in the replacement of an incumbent coach who had held the position for numerous years.